

# Notice of Allowability

Application No.

10/764,451

Examiner

Jon D. Epperson

Applicant(s)

TOWNSEND ET AL.

Art Unit

1639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/31/2007.
2. ☒ The allowed claim(s) is/are 30, 31, 33-36, 38-40, 42 and 43 (renumbered 1-11).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached.
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 1/28/07
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

/Jon D. Epperson/  
Primary Examiner, AU 1639

## **DETAILED ACTION**

### ***Status of the Application***

1. Receipt is acknowledged of a responsive amendment, which was dated on October 31, 2007.

### ***Status of the Claims***

2. Claims 25-31, 33-36, 38-40, 42, 43, and 46-48 were pending. Applicants amended claims 30 and canceled claims 46-48. No claims were added. Therefore, claims 25-31, 33-36, 38-40, 42, and 43 are currently pending. An examination on the merits follows.

### ***Withdrawn rejections***

3. The enablement rejection under 35 U.S.C. § 112, first paragraph is withdrawn in view of Applicants' amendments to claim 30.

### ***Examiner's Amendment***

4. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview with Mr. Dwight M. Benner on January 28, 2008 (see attached interview summary).

The application has been amended as follows:

- a. Claims 25-29 have been cancelled.

- b. For claim 30, the phrase "R is selected from the group consisting of alkyl groups having 6-10 carbon atoms, unsaturated hydrocarbon groups having 6-10 carbon atoms, or alkyl groups having 6-10 carbon atoms interrupted by at least one aromatic ring" has been replaced with --R is selected from the group consisting of any alkyl group having from 6-10 carbon atoms, any unsaturated hydrocarbon having from 6-10 carbon atoms, or any alkyl group having from 6-10 carbon atoms interrupted by at least one aromatic ring--.
- c. For claim 31, the phrase "The method of claim 30, wherein R is alkyl groups" has been replaced with --The method of claim 30, wherein R is an alkyl group--.
- d. For claim 43, the phrase "Z is -CH<sub>2</sub>- and Y is -NH<sub>2</sub>" has been replaced with -- Z is -CH<sub>2</sub>- and Y is -NH<sub>2</sub>--.

#### *Reasons for Allowance*

5. The following is the Examiner's statement of reasons for allowance:

The claims are allowed for the reasons that the prior art of record does not teach or fairly suggest applicants' claimed methods. Although compounds of formula R-SOn-Z-CO-Y were known at the time of filing (e.g., see Marcel et al. "<sup>1</sup>H- and <sup>13</sup>C-NMR studies on sulfinyl and sulfonyl derivatives of positional isomers of methyl thialaurate", Chemistry and Physics of Lipids, 1992, 61, pp. 139-147, 6/1/04 IDS, reference 10, compounds 1-20 on page 141), these compounds were not used to inhibit the growth of a mycobacterial cell selected from the group consisting of Mycobacterial tuberculosis, drug resistant M. tuberculosis, M. bovis, M. leprae, and M. paratuberculosis as currently claimed and it would not have been *prima facie* obvious to do so. Therefore, claims 30, 31, 33-36, 38-40, 42 and 43 (renumbered 1-11) are allowed.

Any comments considered necessary by applicant must be submitted no later than the

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payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Salutation***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon D Epperson whose telephone number is (571) 272-0808. The examiner can normally be reached Monday-Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on (571) 272-0763. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jon D. Epperson/  
Primary Examiner, AU 1639